IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

WP(C).No. 29822 of 2007(A)

OPTP.152/2007 of DISTRICT COURT,TRIVANDRUM
OS 161/04 OF SUB COURT, ATTINGAL

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PETITIONER:

R.SATHYADEVAN , PROPRIETOR,
KARTHIKA HOTEL, ATTINGAL,
RESIDING AT KARTHIKA HOTEL, ATTINGAL,
CHIRAYINKEEZHU TALUK,
THIRUVANANTHAPURAM.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENTS:

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1. VETTOOR R. JAYAPRAKASH
ADVOCATE, ANANDA BHAVAN, MARKET ROAD,
ATTINGAL.

2. S.VALSA,
RESIDING AT PARVATHY
OPP. SALES TAX OFFICE, ATTINGAL.

BY ADV. SRI.SEBASTIAN DAVIS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Appendix

Petitioner's Exts.:

Ext.P1 Photostat copy of plaint dated 29.11.2004 in OS 161/04 on the file of Sub court, Attingal.

Ext.P2 Photo copy of written statement dated 16.12.2004 filed by the 1st defendant in OS 161/04 on the file of Sub Court, Attingal.

Ext.P3 Photo copy of original (transfer) Petition 152/07 dated 11.6.2007 filed by the petitioner before the District Court, Thiruvananthapuram.

Ext.P4 Photo copy of objection dated 5.7.2007, filed by the 1st respondent before the District Court, Thiruvananthapuram in original (Transfer) Petition No.152/07.

Ext.P5 Photo copy of order dated 14.9.2007 rendered by the District Court, Thiruvananthapuram in Original (transfer) Petition 152/2007.

M.N.Krishnan, J.

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W.P(C).No.29822 of 2007

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Dated this the 30th day of November, 2007.

JUDGMENT

This Writ Petition is preferred against the order of the learned District Judge, Thiruvananthapuram in O.P.(TP) No.152 of 2007. It is a transfer petition filed by the first defendant in the suit. Apprehensions raised are that the plaintiff is a Senior Advocate practicing in the court and secondly one of the witnesses proposed to be examined is the owner of the building where the Presiding Officer resides. The learned District Judge considered the report and found that the Presiding Officer has no direct conduct with the owner. But it is only through the Manager that he is paying the rent.

2. I do not want to elaborate and go into the details. But following the basic principles that not only justice should be done but it should be seemed to be done also it is desirable to transfer the case. By the said approach certainly there will not be any embarrassment to him and the parties can also be satisfied that the case has been transferred. It is quite unfortunate that now a days wild allegations are levelled against Presiding Officers, some with materials and some without any materials. It is a practice which has to be deprecated. But as far as justide delivery system is concerned, ultimately the parties will have to

be satisfied that in a litigation their case has been properly represented, heard and judgment delivered.

3. Therefore, I feel that without going much into the details, the case can be transferred and hence, I transfer O.S.No.161 of 2004 pending before the Subordinate Judge, Attingal to the Principal Sub Judge, Thiruvananthapuram for trial and disposal. The Subordinate Judge, Attingal is directed to transmit the files and the Principal Subordinate Judge, Thiruvananthapuram is directed to issue notice to the Advocates appearing for the parties regarding the posting date, then proceed further with the matter and dispose it of in accordance with law as expeditiously as possible, especially being a money suit.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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